

HOUSE BILL 731

C5, M5

4lr2628
CF SB 548

By: **Delegates Embry, Qi, Boaf, Charkoudian, Edelson, Grossman, Queen, and Ruth**

Introduced and read first time: January 29, 2024

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Gas – Strategic Infrastructure Development and Enhancement**
3 **(Ratepayer Protection Act)**

4 FOR the purpose of altering the required contents of a certain plan that a gas company may
5 file with the Public Service Commission for proposed eligible infrastructure
6 replacement projects to include certain descriptions, demonstrations, analyses, and
7 notifications; altering the required findings of the Commission in considering
8 whether to approve a certain infrastructure replacement plan; and generally relating
9 to natural gas and infrastructure management.

10 BY repealing and reenacting, with amendments,
11 Article – Public Utilities
12 Section 4–210
13 Annotated Code of Maryland
14 (2020 Replacement Volume and 2023 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Public Utilities**

18 4–210.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) “Customer” means a retail natural gas customer.

21 (3) “Eligible infrastructure replacement” means a replacement or an
22 improvement in an existing infrastructure of a gas company that:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(i) is made on or after June 1, 2013;

(ii) is designed to improve public safety or infrastructure reliability;

(iii) does not increase the revenue of a gas company by connecting an improvement directly to new customers;

(iv) reduces or has the potential to reduce greenhouse gas emissions through a reduction in natural gas system leaks; and

(v) is not included in the current rate base of the gas company as determined in the gas company's most recent base rate proceeding.

(4) "NATURAL GAS" MEANS METHANE GAS PRODUCED FROM A GEOLOGICAL FORMATION BENEATH THE SURFACE OF THE EARTH.

(5) "NATURAL GAS ALTERNATIVE" MEANS A FUEL THAT CAN BE BURNED IN TANDEM WITH OR IN PLACE OF NATURAL GAS, INCLUDING BIOMETHANE, RECOVERED METHANE, SYNTHETIC METHANE, AND HYDROGEN.

[(4)] (6) "Plan" means a plan that a gas company files under subsection (d) of this section.

[(5)] (7) "Project" means an eligible infrastructure replacement project proposed by a gas company in a plan filed under this section.

(b) It is the intent of the General Assembly that the purpose of this section is to **[accelerate] PROMOTE** gas infrastructure improvements in the State, **WHEN NECESSARY AND APPROPRIATE TO ENSURE THE SAFETY OF THE GAS SYSTEM AND TO PROVIDE CONSISTENCY WITH STATE CLIMATE POLICY**, by establishing a mechanism for gas companies to promptly recover reasonable and prudent costs of investments in eligible infrastructure replacement projects separate from base rate proceedings.

(c) This section does not apply to a gas cooperative.

(d) (1) A gas company may file with the Commission:

(i) a plan to invest in eligible infrastructure replacement projects; and

(ii) in accordance with paragraph (4) of this subsection, a cost-recovery schedule associated with the plan that includes a fixed annual surcharge on customer bills to recover reasonable and prudent costs of proposed eligible infrastructure replacement projects.

(2) A plan under this subsection shall include:

(i) A DESCRIPTION OF EACH ELIGIBLE PROJECT, INCLUDING THE PROJECT'S EXPECTED USEFUL LIFE;

(II) a time line for the completion of each eligible project;

[(ii)] (III) the estimated cost of each project;

[(iii)] (IV) a description of customer benefits under the plan;

(V) A DEMONSTRATION THAT THE GAS COMPANY HAS SELECTED AND GIVEN PRIORITY TO PROJECTS BASED ON RISK TO THE PUBLIC AND COST-EFFECTIVENESS;

(VI) AN ANALYSIS THAT COMPARES THE COSTS OF PROPOSED REPLACEMENT PROJECTS WITH ALTERNATIVES TO REPLACEMENT, INCLUDING:

1. LEAK DETECTION AND REPAIR; AND

2. THE TARGETED RETIREMENT OR ABANDONMENT OF PORTIONS OF THE GAS SYSTEM IN CONJUNCTION WITH ELECTRIFICATION;

(VII) A PLAN FOR NOTIFYING CUSTOMERS AFFECTED BY PROPOSED PROJECTS AT LEAST 2 YEARS IN ADVANCE OF CONSTRUCTION TO ALLOW CUSTOMERS THE OPPORTUNITY TO ELECTRIFY; and

[(iv)] (VIII) any other information the Commission considers necessary to evaluate the plan.

(3) (i) When calculating the estimated cost of a project under paragraph (2) of this subsection, a gas company shall include:

1. the pretax rate of return on the gas company's investment in the project;

2. depreciation associated with the project, based on new assets less retired plant; and

3. property taxes associated with the project, based on new assets less retired plant.

(ii) The estimated project costs described in subparagraph (i) of this paragraph are collectible at the same time the eligible infrastructure replacement is made.

(iii) The pretax rate of return under subparagraph (i)1 of this

1 paragraph shall:

2 1. be calculated using the gas company's capital structure
3 and weighted average cost of capital as the Commission approved in the gas company's
4 most recent base rate proceeding; and

5 2. include an adjustment for bad debt expenses as the
6 Commission approved in the gas company's most recent base rate proceeding.

7 (4) For a plan filed under this section:

8 (i) the cost-recovery schedule shall include a fixed annual
9 surcharge that:

10 1. may not exceed \$2 each month on each residential
11 customer account; and

12 2. for each nonresidential customer account, may not be less
13 than the fixed annual surcharge applicable to a residential customer account, but shall be
14 capped under item (ii) of this paragraph; and

15 (ii) to create a surcharge cap for all customer classes, costs shall be
16 allocated to nonresidential and residential customers consistent with the proportions of
17 total distribution revenues that those classes bear in accordance with the most recent base
18 rate proceeding for the gas company.

19 (5) In a base rate proceeding after approval of a plan, the Commission
20 shall, in establishing a gas company's revenue requirements, take into account any benefits
21 the gas company realized as a result of a surcharge approved under the plan.

22 (6) Any adjustment for return on equity based on an approved plan only
23 shall be considered and determined in a subsequently filed base rate case.

24 (e) (1) Within 180 days after a gas company files a plan, the Commission:

25 (i) may hold a public hearing on the plan; and

26 (ii) shall take a final action to approve or deny the plan.

27 (2) Within 150 days after a gas company files an amendment to an
28 approved plan, the Commission shall take final action to approve or deny the amendment.

29 (3) The Commission may approve a plan if it finds that the investments
30 and estimated costs of eligible infrastructure replacement projects are:

31 (i) reasonable and prudent; [and]

(ii) designed to improve public safety or infrastructure reliability over the short term and long term;

(III) REQUIRED TO IMPROVE THE SAFETY OF THE GAS SYSTEM AFTER CONSIDERATION OF ALTERNATIVES TO REPLACEMENT;

(IV) CONSISTENT WITH THE NEED TO REDUCE THE USE OF NATURAL GAS IN LIGHT OF STATE CLIMATE POLICY; AND

(V) CONSISTENT WITH THE PROJECTED AVAILABILITY AND COST-EFFECTIVENESS OF NATURAL GAS ALTERNATIVES.

(4) (i) The Commission shall approve the cost-recovery schedule associated with the plan at the same time that it approves the plan.

(ii) Costs recovered under the schedule approved in subparagraph (i) of this paragraph may relate only to the projects within the plan approved by the Commission.

(5) The Commission may not consider a revenue requirement or rate-making issue that is not related to the plan when reviewing a plan for approval or denial unless the plan is filed in conjunction with a base rate case.

(f) (1) Subject to paragraph (2) of this subsection, if the Commission does not take final action on a plan within the time period required under subsection (e) of this section, the gas company may implement the plan.

(2) If a gas company implements a plan that the Commission has not approved, the gas company shall refund to customers any amount of the surcharge that the Commission later determines is not reasonable or prudent, including interest.

(g) (1) (i) A surcharge under this section shall be in effect for 5 years from the date of initial implementation of an approved plan.

(ii) 1. Before the end of the 5-year period, the gas company shall file a base rate case application.

2. In a base rate proceeding filed under subsubparagraph 1 of this subparagraph, if a plan approved by the Commission remains in effect:

A. eligible infrastructure project costs included in base rates in accordance with a final Commission order on the base rate case shall be removed from a surcharge; and

B. the surcharge mechanism shall continue for eligible future infrastructure project costs that are not included in the base rate case.

1 (2) (i) If the actual cost of a plan is less than the amount collected under
2 a surcharge, the gas company shall refund to customers the difference on customer bills,
3 including interest.

4 (ii) If the actual cost of a plan is more than the amount collected
5 under the surcharge and the Commission determines that the higher costs were reasonably
6 and prudently incurred, the Commission shall authorize the gas company to increase the
7 surcharge to recover the difference, subject to the rate limit under subsection (d)(4) of this
8 section.

9 (h) Each year a gas company shall file with the Commission a reconciliation to
10 adjust the amount of a surcharge to account for any difference between the actual cost of a
11 plan and the actual amount recovered under the surcharge.

12 (i) If, after approving a surcharge in a plan, the Commission establishes new base
13 rates for the gas company that include costs on which the surcharge is based, the gas
14 company shall file a revised rate schedule with the Commission that subtracts those costs
15 from the surcharge.

16 (j) (1) The Commission may review a previously approved plan.

17 (2) If the Commission determines that an investment of a project or cost of
18 a project no longer meets the requirements of subsection (e)(3) of this section, the
19 Commission may:

20 (i) reduce future base rates or surcharges; or

21 (ii) alter or rescind approval of that part of the plan.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2024.